

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STUART T. NORMAN, JR.,

Defendant.

:

:

Case No. CR-3-93-034(1)
C-3-98-410

:

JUDGE WALTER HERBERT RICE

:

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #1042), AND
OVERRULING PETITIONER'S OBJECTIONS THERETO; DEFENDANT'S
MOTION TO REOPEN HABEAS JUDGMENT AS THE RESULT OF FRAUD
UPON THIS COURT (DOC. #1041) DENIED AS UNTIMELY; JUDGMENT
TO ENTER ACCORDINGLY; ANTICIPATED REQUEST FOR CERTIFICATE
OF APPEALABILITY AND FOR LEAVE TO APPEAL *IN FORMA PAUPERIS*
DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge in his Report and Recommendations filed May 31, 2005 (Doc. #1042), as well as upon a thorough *de novo* review of the pertinent portions of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. Petitioner's Objections to said judicial filing (Doc. #1047) are overruled. Judgment will be ordered entered in favor of the Government and against Petitioner, dismissing Petitioner's Motion to Vacate, with prejudice, as

barred by the applicable statute of limitations.

Given that reasonable jurists would not disagree with the premise that the Petitioner's Motion is untimely, Petitioner is denied both a Certificate of Appealability and leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

October 26, 2005

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies mailed to:

Ralph Kohnen, Esq.
Stuart T. Norman, Jr., *Pro Se*
Judge Michael R. Merz